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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,414	01/12/2006	Noriyuki Sakoh	283098US6PCT	8040
22850 7590 05/21/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER SHIU, HO T	
			ART UNIT 2457	PAPER NUMBER
			NOTIFICATION DATE 05/21/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/564,414	Applicant(s) SAKOH ET AL.	
	Examiner HO SHIU	Art Unit 2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>17 March 2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/17/2009 has been entered.

2. Claims 1-20 are pending in this application. Claims 1-2, 5-6, 8-9, 13, 14, 16-18 have been amended and claims 19-20 are newly added by Applicant's amendment filed on 03/17/2009.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 9, 14, 17-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. With respect to claims 1, 9, 14, and 17-18 the phrase “stored in a data area such that no information is removed” is claimed. However, “no information” it is unclear if the information is regarding the content identification information, the content attribute information, or any information which means everything single piece of data is not removed. Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-3, 5-11, 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (US Patent # 7,299,271 B2, hereinafter Sato) in view of Kyojima et al (US Patent # 6,275,936 B1, hereinafter Kyo) and in further view of Takaragi et al. (US Patent # 6,592,032 B1, hereinafter Tak).**

8. With respect to claims 1, 9, and 17, Sato discloses a content acquisition method, device, and computer readable recording medium storing a program, which when executed by a processor, causes the processor to execute a procedure comprising: sending file request information that requests an acquire/use file storing acquire/use content identification information and content attribute information, to an acquire/use

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information providing device (col. 2, lines 62-33, col. 3, lines 1-8), receiving via a proxy device (col. 6, lines 17-23), said acquire/use file that stores the content identification information and said attribute information of said content data sent by said acquire/use information providing device in response to the content data request, said content identification information and content attribute information are stored in a data area such that no information is removed when the acquire/use file passes through said proxy device (col. 6, lines 24-36, col. 2, lines 25-28, A proxy server that passes all requests and replies unmodified is called a gateway or tunneling proxy. Residential gateways are also known as routers.), said receiving via a proxy device including receiving said acquire/use file sent in compliance with HTTP (Hyper Text Transfer Protocol) from said acquire/use information providing device (col. 2, lines 25-28, col. 3, lines 29-36); sending step of sending content request information requesting said content data from a content providing device according to said acquire/use information contained in said acquire/use file (col. 6, lines 50-55); receiving said content data sent by said content providing device in response to the transmission of said content request information (col. 7, lines 4-10).

Although Sato discloses the claimed invention, Sat does not clearly disclose said content identification information and content attribute information are stored in a data area such that no information is removed when the acquire/use file passes through said proxy device.

However, in the same field of endeavor, Kyo discloses said content identification information and content attribute information are stored in a data area such that no

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information is removed when the acquire/use file passes through said proxy device (col. 12, lines 28-35).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Sato with the teachings of Kyo in order to prevent any user from changing the information so that statistical work, inspection or the like would be available.

Sato and Kyo clearly disclose the claimed invention. Furthermore, Tak discloses said content identification information and content attribute information are stored in a data area such that no information is removed when the acquire/use file passes through said proxy device (col. 7, lines 65-67, col. 8, lines 1-14). Since Tak discloses in fig. 1 that the ID and attribute information is sent from the radio base station through a public network to the control apparatus without having any information removed (disclosed when Tak determines that the ID number and the set of attributes have not been altered), it would have been obvious to one of ordinary skill that a proxy device compliant with HTTP protocol would have been used in conjunction with Tak in order to utilize the WWW as a public network just as Sato as stated using the router to connect to the internet.

9. With respect to claims 2 and 10, Sato discloses wherein the attribute information corresponding to said content data includes data size information of said content data (col. 3, lines 29-32).

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10. With respect to claims 3 and 11, Sato discloses comparing said data size information of said content data contained in said acquire/use file with a free space of a recording media to be used to record said content data upon reception (col. 4, lines 15-20); and notifying a lack of said free space in said recording media for storing the content data if said free space in said recording media is insufficient (col. 3, lines 37-41).

11. With respect to claim 5 and 13, Sato discloses said acquire/use file stores said content identification information and said attribute information of said content data in its main section (col. 3, lines 29-36).

12. With respect to claims 6, 14, and 18, Sato discloses an acquire/use information providing method, device, computer readable recording medium storing a program which when executed by a processor causes the processor to execute a procedure comprising: receiving file request information for requesting an acquire/use file that stores acquire/use content identification information and content attribute information of content data, sent by a content acquisition device in response to a request for the content data by a content data acquisition device (col. 3, lines 22-27); and sending via a proxy device to said content acquisition device (col. 6, lines 17-23), said acquire/use file that stores content data content identification information and the attribute information of the content, said content identification information and content attribute information are stored in a data area such that no information is removed when the

acquire/use file passes through said proxy device, in response to the received filed request information (col. 6, lines 24-36, col. 2, lines 25-28, A proxy server that passes all requests and replies unmodified is called a gateway or tunneling proxy. Residential gateways are also known as routers), said sending including sending said acquire/use file in compliance with HTTP (Hyper Text Transfer Protocol) (col. 3, lines 29-36).

Although Sato discloses the claimed invention, Sat does not clearly disclose said content identification information and content attribute information are stored in a data area such that no information is removed when the acquire/use file passes through said proxy device.

However, in the same field of endeavor, Kyo discloses said content identification information and content attribute information are stored in a data area such that no information is removed when the acquire/use file passes through said proxy device (col. 12, lines 28-35).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Sato with the teachings of Kyo in order to prevent any user from changing the information so that statistical work, inspection or the like would be available.

Sato and Kyo clearly disclose the claimed invention. Furthermore, Tak discloses said content identification information and content attribute information are stored in a data area such that no information is removed when the acquire/use file passes through said proxy device (col. 7, lines 65-67, col. 8, lines 1-14). Since Tak discloses in fig. 1 that the ID and attribute information is sent from the radio base station through a public

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network to the control apparatus without having any information removed (disclosed when Tak determines that the ID number and the set of attributes have not been altered), it would have been obvious to one of ordinary skill that a proxy device compliant with HTTP protocol would have been used in conjunction with Tak in order to utilize the WWW as a public network just as Sato as stated using the router to connect to the internet.

13. With respect to claims 7 and 15, Sato discloses said attribute information corresponding to said content data includes data size information of said content data (col. 3, lines 29-32).

14. With respect to claims 8 and 16, Sato discloses said acquire/use file stores said content identification information and said data size information of said content data in its main section (col. 3, lines 29-36).

15. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato in view of Kyo and in further view of Tak as applied to claims 1, 2, 9, and 10 and in further view of Dansie et al. (US Patent # 7,308,487 B1, hereinafter Dansie).

16. With respect to claims 4 and 12, Sato discloses comparing the data size of received content data with said data size information of said content data contained in

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said acquire/use file, and determining whether the content data has been successfully received (col. 5, lines 11-21).

In the same field of endeavor, Dansie discloses a determination step of, after receiving said content data, comparing the data size of received said content data with said data size information of said content data contained in said acquire/use file, and determining whether or not said content data is successfully received (col. 14, lines 67, col. 15, lines 1-8).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Sato with the teachings of Dansie in order to recognize that the file was interrupted or not complete while being transferred.

17. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato in view of Kyo and in further view of Tak as applied to claim 1 and in further view of Official Notice.

18. With respect to claim 19, Sato, Kyo, and Tak do not explicitly state wherein the content data is an audio file.

The examiner takes official notice that it would have been obvious one of ordinary skill in the art at the time the invention was made to have content data as an audio file in order to transfer an audio file from one place/user to another since a data

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file can contain any type of data as a user desires.

19. With respect to claim 19, Sato, Kyo, and Tak do not explicitly state wherein the content data is a music file.

The examiner takes official notice that it would have been obvious one of ordinary skill in the art at the time the invention was made to have content data as a music file in order to transfer a music file from one place/user to another since a data file can contain any type of data as a user desires.

Response to Arguments

20. Applicant's arguments with respect to claims 1-20 have been considered but are not persuasive.

21. On page 9-11 of applicant's arguments, applicants argue that Sato does not disclose "said content identification information and content attribute information are stored in a data area such that no information is removed when the acquire/use file passes through said proxy device, said receiving via a proxy device including receiving said acquire/use file sent in compliance with HTTP (Hyper Text Transfer Protocol) from said acquire/use information providing device. Applicant's also argue that Sato would have been unsuitable for its intended purpose by modifying the feature of a file going through a proxy device wherein no information is removed while the proxy device is in

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compliant with HTTP protocol. As applicants have stated, Sato clearly discloses using the HTTP protocol to transfer file since it utilizes the internet in which the World Wide Web utilizes a protocol of HTTP. The applicant has submitted a copy of the HTTP standard as has referred and cited section 4.4 of the Content-Length header field

“If a Content-Length header field (section 14.13) is present, its decimal value in OCTETs represent both the entity-length and the transfer-length. The Content-Length header field **MUST NOT** be sent if these two lengths are different (i.e., if a Transfer-Encoding header field is present). If a message is received with both a Transfer-Encoding header field and a Content-Length header field, the latter **MUST** be ignored.”

From this passage, the applicant's came to the conclusion that under the HTTP standard, a proxy device **always** removes some information from a message meeting the above description. The examiner cannot understand how this passage describes what the applicant has stated that the proxy device always removes some information. The examiner has understood the cited passage that if a Content-Length header field must not be sent if the entity-length and the transfer-length are different. Also, if a message is received with both a Transfer-Encoding header field and Content-Length header field, the latter must be ignored. There is no mention of removing any type of information in this passage. The examiner respectfully disagrees with applicant's understanding of this passage.

The examiner also notes that even in some way, shape, or fashion, that the above cited passage can be understood as what the applicant has stated, the claimed

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limitation clearly contradicts applicant's statement. As the applicant's have stated, the use of HTTP standard, a proxy device ***always*** removes some information according to the HTTP standard. However, the applicant has claimed that no information is removed when the file is passed through the proxy device and while the proxy device is receiving the file in compliance with the HTTP protocol. This claim limitation that the applicant has claimed clearly contradicts what the applicant has stated on applicant's arguments.

The examiner notes that a proxy device always removes some information was not interpreted by the examiner according to the citations the applicants provided. The examiner also notes again that in order to show a contradiction between the applicants claim and applicant's statement, assuming that when using an HTTP standard, the proxy device always removes some information was only interpreted hypothetically.

Conclusion

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HO SHIU whose telephone number is (571)270-3810. The examiner can normally be reached on Mon-Thur (8:30am - 4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HTS
05/14/2009

Ho Ting Shiu
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